

OCT 31 2007

CATHY A. CATTERSON, CLERK
U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

ROBERT SCHWERIN,

Petitioner - Appellant,

v.

MICHAEL KNOWLES; et al.,

Respondents - Appellees.

No. 05-17396

D.C. No. CV-02-00096-MCE

MEMORANDUM^{*}

Appeal from the United States District Court
for the Eastern District of California
Morrison C. England, District Judge, Presiding

Argued and Submitted October 16, 2007
San Francisco, California

Before: BRUNETTI, W. FLETCHER, and CLIFTON, Circuit Judges.

Robert Schwerin appeals the denial by the district court of his petition for habeas corpus pursuant to 28 U.S.C. § 2254. We affirm.

None of Schwerin's arguments related to violations of California law are cognizable on federal habeas review. *See Estelle v. McGuire*, 502 U.S. 62, 67-68

^{*} This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

(1991). There is no federal right to a preliminary hearing of the type at issue. *See Ramirez v. Arizona*, 437 F.2d 119 (9th Cir. 1971). Schwerin received constitutionally adequate notice of the charges against him. *See Morrison v. Estelle*, 981 F.2d 425, 428-29 (9th Cir. 1992). There is no clearly established Supreme Court precedent that prohibits the admission of uncharged propensity evidence in a state proceeding. *McGuire*, 502 U.S. at 75 n.5. Trial counsel's failure to object to the uncharged propensity evidence did not constitute ineffective assistance of counsel and did not prejudice Schwerin. *See Strickland v. Washington*, 466 U.S. 668, 686-88, 694 (1984).

While some of the prosecutor's statements during closing argument may have been improper, none were so egregious that the state court's denial of Schwerin's prosecutorial misconduct claim was an objectively unreasonable application of *Darden v. Wainwright*, 477 U.S. 168 (1986).

AFFIRMED.